

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8821 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

SEVA SAHKAR GENERAL KAMDAR UNION.

Versus

VIRAMGAM TEXTILE MILLS

Appearance:

1. Special Civil Application No. 8821 of 1993
MR DEVANG T SHAH for Petitioner No. 1
MR BR GUPTA for Respondent No. 1-2
MR MEHUL H RATHOD for Respondent No. 3-4
MR RC KODEKAR ASSTT GOVT PLEADER for Respondent No. 5
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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 19/01/2004

ORAL JUDGEMENT

Heard learned advocate Mrs.D.T.Shah appearing on

behalf of the petitioner and learned AGP Mr.R.C.Kodekar for respondent No.3 to 5. Learned advocate Mr.B.R.Gupta for respondent Nos.1 & 2.

#. The short grievance of the present petitioner is that initially, Special Civil Application being SCA No.8695 / 1991 was filed, which came to be withdrawn by the petitioner because the complaint was filed to the Assistant Commissioner of Labour. Therefore, the petition was disposed of on 22.3.1993 on the ground that the petitioner having an alternative remedy. Thereafter, the petitioner has approached the Labour Commissioner by letter dated 28th January, 1991 and detailed grievance complaining non compliance of the award and unfair labour practice adopted by the employer. Thereafter, on 3.6.1993 further details have been given by the Union to the respondent authority. Thereafter, on 30.4.1993 one reply has been received from Government Labour Officer, Ahmedabad in respect of the complaint filed by the petitioner.

#. Learned AGP Mr.R.C.Kodekar has submitted that after verifying the complaint and two letters referred to above, the Government Labour Officer has rightly answered the grievance raised by the petitioner. However, he emphasised that if the reply of the Government Labour Officer is not proper or satisfactory to the petitioner, in that case, the petitioner should have immediately reacted by raising further contention before the concerned authority. But no such letter has been received by the Government Labour Officer subsequent to 30.4.1993. On the contrary, the petition has been filed by the petitioner. Therefore, he submitted that if the grievance raised by the petitioner in above referred two letters not satisfied as per the reply dated 30th April, 1993 submitted by the respondent Government Labour Officer, then, the petitioner may point it out again to the Government Labour Officer or the Labour Commissioner that his grievance is satisfied or not and if not, what grievance not redressed and in such eventuality, the respondent authority will certainly look into the matter and take appropriate action in accordance with law against the employer.

#. In view of above submission made by the learned AGP Mr.R.C.Kodekar and learned advocate Mrs.D.T.Shah, it is submitted that the petitioner Union will move the authority by pointing it out that the reply given is not correct and the same is false to some extent and their grievance is still subsisted and not satisfied, within a period of one month from the date of receiving the copy

of this order. In above view of the matter, the respondent Nos.3 to 5 are directed to consider the letter that may be submitted by the petitioner against the reply of the Government Labour Officer dated 30th April, 1993 to examine and consider the same and if necessary, initiate appropriate action in accordance with law against the employer.

This exercise requires to be completed by the respondents within two months from the date of receiving such letter from the petitioner.

This petition is disposed of only on the consideration that the Government Authority is failing in discharging of its duties and therefore, the other contentions raised by the petitioner against the employer in the present petition stand open to the petitioner.

In view of above observations and directions, present petition stands disposed of accordingly.

Office to send the writ of this order immediately to the respondent Nos.3 to 5.

Date : 19.1.2004 [H.K.Rathod, J.]

#kailash#